

State Legislature Responds to Hochul's Proposal with Higher Medicaid Reimbursement Rate Bump, 340B Repeal

The state Assembly and Senate's budget resolutions, released Monday and Tuesday, recommend modifications to Gov. Kathy Hochul's executive budget proposal to give a larger Medicaid reimbursement rate increase to hospitals, a change many health care providers advocated for after the governor released her proposal in February.

These resolutions are the Legislature's formal response to the governor's proposal: the Senate released a resolution text and the Assembly, a summary of its own budget proposal.

The governor's initial proposal allocated a record \$35 billion for the state share of Medicaid funding. Her proposal was met with criticism from health care providers who said a 5% Medicaid reimbursement rate for hospitals, nursing homes and assisted living providers was not sufficient for struggling organizations. Health care associations have been advocating for a 10% or 20% bump instead, arguing that would better help providers combat the rising costs of care.

The Legislature appears to have listened to providers' concerns. Health care groups and associations have been up in Albany lobbying legislators since the governor released her proposal, and these responses include several budget add-ons that answer providers' calls for more funding—and changes to the state's upcoming Medicaid pharmacy benefit transition.

The Senate's resolution would add about \$412 million to support a 10% reimbursement rate increase for hospitals— [exactly what they asked for](#)—as well as reduce the state's share of the indigent care pool so more high-need facilities can get funding. This part of the resolution would add \$624 million for state-share Medicaid local takeover growth and make the state health department's ability to award temporary payments to distressed facilities permanent, as well. According to the Assembly's summary of aid to localities, meanwhile, it would provide \$425 million for that 10% increase.

Wendy Darwell, the chief executive of the Suburban Hospital Alliance of New York State which represents more than 50 organizations, said she is grateful the recommendations acknowledge that the gap between the cost of providing care and Medicaid reimbursements is unsustainable for hospitals.

She added the boost would help to close a budget gap for a lot of providers, who are not only struggling to get back on their feet in the wake of the Covid-19 pandemic, but also have been grappling with an expensive workforce shortage.

"There's a lot of pressure to raise salaries to make sure that you're retaining and attracting your workforce," Darwell said. "It would be extremely challenging to be able to provide those raises if we were not seeing some improvement on Medicaid payments."

Safety-net hospitals that care for a high percentage of Medicaid patients can be particularly vulnerable to reimbursement rate shortfalls. The Senate's resolution adds \$1 billion in state funding for distressed safety-net hospitals, which [lawmakers called for](#) in response to Hochul's plan, and the Assembly's summary adds \$850 million.

Furthermore, the Senate and Assembly have added \$187 million and \$100 million, respectively, to support distressed nursing homes. Providers raised concerns throughout 2022 about their ability to continue providing care as staffing shortages and low reimbursement rates forced some facilities to [leave beds empty](#).

In the Assembly's summary, just over \$157 million has been added to support a 10% reimbursement rate increase for nursing homes (which had previously asked for as high as a 20% increase). Furthermore, the Senate document also notes that the Department of Health should find solutions to ensure that New York's staffing shortages do not create nursing home bed underutilization.

The Senate resolution also adds Department of Health-related provisions that have been the subject of controversy and advocacy since the governor's proposal. For example, the bill adds \$1.7 billion to expand the Essential Plan to cover undocumented immigrants, regardless of age—a modification some lawmakers have also [taken action](#) to achieve prior to this resolution coming out.

Meanwhile, in a move that reflects the concerns providers have voiced for months, the Senate has advanced language to repeal the [upcoming 340B carve-out](#)—and the Assembly has added \$410 million to reject the carve-out's implementation, a similar amount to how much the state Medicaid program estimates the transition would save in fiscal 2024.

New York is set to transition its Medicaid pharmacy benefit program from managed care to a fee-for-service model on April 1, a move the state has said is an opportunity to save millions.

However, with that switch would come changes to the 340B drug program. Providers have feared that these changes would push them off ["fiscal cliffs"](#) because they might not receive 340B revenues as they have been.

The repeal, which would be a new part of the budget, would require managed care providers and pharmacy benefit managers to use the fee-for-service preferred drug list in developing their formulary, require managed care providers and pharmacy benefit managers to reimburse retail pharmacies and 340B-covered entity providers for each drug at the National Average Drug Acquisition Cost or the fee-for-service reimbursement rate plus a tiered dispensing fee of at least \$10.18.

It would also prohibit managed care providers from not letting retail pharmacies participate in their networks and prohibit them from limiting a New Yorker's choice to receive their medication from their local pharmacy. The resolution would also reimburse contract pharmacies under 340B through a fee schedule based on fair market principles, the text of the bill reads.

Allegra Schorr, the president of the Coalition for Medication-Assisted Treatment Providers, said she is relieved about the houses' rejection of the carve-out.

"It's better to take this back to the drawing board," she said.

While the governor's executive budget had proposed reinvesting savings from the carve-out into providers, Schorr noted that the house's responses don't seem to find that an adequate solution to the challenges providers could face if the carve-out were to occur.

"If one part of the system is impacted, it ultimately cascades and impacts everyone," she added. "We need to see a reconsideration of that program."

Going forward, the Legislature and the governor will debate the budget points they disagree on and come up with a compromise budget by April 1.